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State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

JERRY D. OLDS
State Engineer/Division Director

June 17, 2008

DIAMOND H FARM, 1 LLC
ATTN: BILL HIRSCHI
4685 BERG ST
NORTH LAS VEGAS, NV 84720

RE: SEAA 1226: MEASURING DEVICE COMPLAINE AND LIMITS OF WATER RIGHTS FROM WELLS

Mr. Hirschi:

On April 3, 2007, the Division of Water Rights ("the State Engineer") initiated the referenced agency action and sent Diamond H Farm1, LLC (respondent) a Notice of Agency Action including the statutory requirement for metering devices on two wells.

LaVar Davis, the **Milford** Water Commissioner, reported to our office that both meters were installed and inspected as required on June 6, 2008. Since these were new meters, the initial reading for both meters was believed to be zero. The Division was concerned since the Water Commissioner reported that during his periodic inspections, one of the wells was observed to be operating without a meter in April and May 2008. This is contrary to the original SEAA 1226 notice.

Currently, the existing water rights have annual diversion limits defining the amount of water that can be pumped from each well for irrigation. If either of these limits is reached, the respondent must discontinue use of that well for irrigation purposes until next irrigation season.¹ These diversion limits will remain fixed until and unless additional water rights are obtained and legally changed into the subject wells to supplement the presently established water rights.

The water commissioner will monitor the amounts pumped using the new meters. These limits are:

Well	Water Right Numbers	Limit per Irrigation Season	Limit per Irrigation Season
NE Well	71-1688 & 71-1766	406.00 Acre-Feet	132,286,493 gallons
SW Well #152	71-94 & 71-4102	354.45 Acre-Feet	115,490,018 gallons

¹ Water right 71-94 has a period of use starting on March 15; the other rights have a period of use starting on April 01. Water right 71-1766 also allows for year-round stockwatering use, limited to a diversion allowance of 2.80 acre-feet for the requirements of 100 equivalent livestock units.



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1. Additional conditions:

- a. Yearly start-of-season and end-of-season flow totalizer readings are to be recorded by the water commissioner. End-of-season readings must occur after the end of each irrigation season and before any water is diverted from either of the subject wells at the start of the next season. Typically the end of season readings is equal to the start of season reading unless the well is appropriately used for an out of season stockwatering right. The water commissioner will also periodically record meter readings to assure compliance with the limitations of the subject water rights. However, it is the respondent responsibility to observe and abide by the limitations of the water rights in the wells.
- b. Please be aware that maintenance of the installed meters remains the respondent's responsibility. You should consult regularly with the Water Commissioner and/or with the Division of Water Rights to assure continued proper maintenance and functioning of the measuring devices. The respondent should also monitor and record the total amounts pumped along with corresponding dates for each well to substantiate the water commissioner's records and to insure the meters are functioning properly.
- c. The annual diversion limitations tabulated herein are based on the calendar year and remain in effect unless "full rights" are established as detailed in Section 2 below.
- d. If the annual diversion amounts are exceeded, the respondent will be in violation of the limitations of the pertinent water rights and will be subject to commencement of an enforcement action by the State Engineer under §73-2-25, Utah Code Ann. If such violation is confirmed, you will be subject to fines and penalties as set forth in §73-2-26, Utah Code Ann.

2. Waiver of metering requirement by establishment of "full rights:"

- a. The metering requirements described under this Notice may be waived if the Respondent files, and the State Engineer shall approve one or more applications for change of water (permanent or temporary) to establish water rights in the subject wells sufficient to provide a full supply of water (when combined with the existing subject water rights) to irrigate you're the entire acreage on which the Rocky Ford Irrigation Co. shares are used.
- b. The described waiver shall remain in effect only to the extent that such change applications shall retain their valid status as "approved" or "perfected" applications.

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- c. In filing change applications for the intent of achieving this waiver of the metering requirement, the respondent should declare that intent in the body of said applications.

Thank you for your cooperation in adhering to your current water right limitations. If you have any questions concerning this Notice, please contact me by phone at (801) 538-7430 or by email at MikeSilva@utah.gov.

Dated this 17th day of June 2008



Mike Silva
Distribution Engineer

pc: Rick Hafen, Attorney for Diamond H Farm 1, LLC (via Email to: rhafen@infowest.com)
Kurt Vest, P.E. / Regional Engineer
Kerry Carpenter, Enforcement Engineer
LaVar Davis / Water Commissioner / PO BOX 483 / MILFORD UT 84751
April McKeon/ Water Commissioner/ PO BOX 555/ MILFORD UT 84751
File: SEAA 1226